

# **INSTRUCTIONS TO BIDDERS**

## **1.0 Defined Terms**

Terms used in these Instructions to Bidders which are defined in the Standard General Conditions of the Construction Contract, EJCDC C-700 (2007 Edition) have the meanings assigned to them in the General Conditions. The term "Bidder" means one who submits a Bid directly to Owner, as distinct from a sub-bidder, who submits a bid to a Bidder. The term "Successful Bidder" means the lowest, qualified, responsible and responsive Bidder to whom Owner (on the basis of Owner's evaluation as hereinafter provided) makes an award. The term "Bidding Documents" includes the Advertisement or Invitation to Bid, Instructions to Bidders, the Bid Form, and the proposed Contract Documents (including all Addenda issued prior to receipt of Bids).

## **2.0 Copies of Bidding Documents**

- 2.1 Complete sets of Bidding Documents may be obtained from the Town of Minturn web site at [www.minturn.org](http://www.minturn.org)
- 2.2 Complete sets of Bidding Documents shall be used in preparing Bids; neither Owner nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 2.3 Owner and Engineer in making copies of Bidding Documents available on the above terms do so only for the purpose of obtaining Bids on the Work and do not confer a license or grant for any other use.

## **3.0 Qualification of Bidders**

- 3.1 To demonstrate qualifications to perform the work, each Bidder must be prepared to submit within five days of Owners request a written statement of qualifications including financial data, a summary of previous experience, previous commitments and evidence of authority to conduct business in jurisdiction where the Project is located. Each Bidder must also be prepared to submit a letter of commitment from a bonding company for the required bonds if so requested by Owner. Each Bid must contain evidence of Bidder's qualification to do business in the state where the Project is located or covenant to obtain such qualification prior to award of the contract.
- 3.2 In determining the Bidder's qualifications, the following factors will be considered: Work previously completed by the Bidder and whether the Bidder (a) maintains a permanent place of business, (b) has adequate plant and equipment to do the Work properly and expeditiously, (c) has the financial resources to meet all obligations incident to the Work, and (d) has appropriate technical experience.
- 3.3 Each Bidder may be required to show that he has handled former work so that no just claims are pending against such work. No Bid will be accepted from a Bidder who is engaged on any other work which would impair his ability to perform or finance this Work.

#### **4.0 Examination of Contract Documents and Site**

- 4.1 It is the responsibility of each Bidder before submitting a Bid, to (a) examine the Contract Documents thoroughly, (b) visit the site to familiarize himself with local conditions that may in any manner affect cost, progress or performance of the Work, (c) familiarize himself with federal, state and local laws, ordinances, rules and regulations that may in any manner affect cost, progress or performance of the Work; and (d) study and carefully correlate Bidder's observations with the Contract Documents; and (e) notify Owner of all conflicts, errors or discrepancies in the Contract Documents.
- 4.2 Reference is made to the Supplementary Conditions for identification of:
  - 4.2.1 Those reports of explorations and tests of subsurface conditions at the site which have been utilized by Owner in preparation of the Contract Documents. Bidder may rely upon the accuracy of the technical data contained in such reports but not upon non-technical data, interpretations or opinions contained therein or for the completeness thereof for the purposes of bidding or construction.
- 4.3 Information and data reflected in the Contract Documents with respect to Underground Facilities at or contiguous to the site is based upon information and data furnished to Owner and Engineer by owners of such Underground Facilities or others, and Owner does not assume responsibility for the accuracy or completeness thereof unless it is expressly provided otherwise in the Supplementary Conditions.
- 4.4 Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders on subsurface conditions, Underground Facilities and other physical conditions, and possible changes in the Contract Documents due to differing conditions appear in Paragraphs 4.03 and 4.04 of the General Conditions.
- 4.5 Before submitting a Bid, each Bidder will, at Bidder's own expense, make or obtain any additional examinations, investigations, explorations, tests and studies and obtain any additional information and data which pertain to the physical conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work and which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price and other terms and conditions of the Contract Documents.
- 4.6 On request in advance, Owner will provide each Bidder access to the site to conduct such explorations and tests as each Bidder deems necessary for submission of a Bid. Bidder shall fill all holes, clean up and restore the site to its former condition upon completion of such explorations.
- 4.7 The lands upon which the Work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by Contractor in performing the Work are identified in the Contract Document. All additional lands and access thereto required for temporary construction facilities or storage of materials and equipment are to be provided by Contractor. Easements for permanent structures or permanent changes in existing structures are to be obtained and paid for by Owner unless otherwise provided in the Contract Documents.
- 4.8 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, and without exception the

Bid is premised upon performing and furnishing the Work required by the Contract Documents and such means, methods, techniques, sequences or procedures of construction as may be indicated in or required by the procedures of construction as may be indicated in or required by the Contract Documents, and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

- 4.9 A mandatory pre-bid conference will be held at 1:00 p.m., on June 29, 2012. Representatives of Engineer and Owner will be present to discuss the project. Bidders are required to attend and participate in the conference. Engineer will transmit to all document holders of record such Addenda as Engineer considers necessary in response to questions arising at the conference.

## **5.0 Interpretations and Addenda**

- 5.1 All questions about the meaning or intent of the Bidding Documents are to be submitted in writing. Interpretation or clarifications considered necessary in response to such questions will be issued only by Addenda. Questions received less than six days prior to the date for opening of the Bids may not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- 5.2 Questions should be directed to Owner's Engineer: TST, Inc., 760 Whalers Way, Building C, Suite 200, Fort Collins, CO 80525, (970)226-0557, Attn: Steve Humann, P.E..
- 5.3 Addenda may also be issued to modify the Bidding Documents as deemed advisable by Owner or Engineer.
- 5.4 Addenda will be mailed or delivered to all parties recorded by Engineer as having received the Bidding documents. No Addenda will be issued later than four days prior to the date for receipt of Bids except an Addendum, if necessary, postponing the date for receipt of Bids or withdrawing the request for Bids.

## **6.0 Bid Security**

- 6.1 The amount of Bid Security is stated in the Invitation to Bid. The required security must accompany each Bid and be in the form enclosed herewith. The Bid Bond must be executed by a surety meeting the requirements set forth in the General Conditions for surety bonds.
- 6.2 The Bid Security of the successful Bidder will be retained until such Bidder has executed the Agreement and furnished the required contract security, whereupon checks furnished as Bid Security will be returned. If the successful Bidder fails to execute and deliver the Agreement and furnish the required contract security within fifteen (15) days of the Notice of Award, Owner may annul the Notice of Award and the Bid Security of that Bidder will be forfeited. The Bid Security of other Bidders whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of the seventh day after the effective date of the Agreement or the forty-fifth day after the Bid opening, whereupon Bid Security furnished by such Bidders will be returned. Bid security with Bids which are not competitive will be returned within seven days after the Bid opening.

## **7.0 Contract Time**

The number of days within which, or the date by which the Work is to be completed (the Contract Time) is set forth in the Bid Form and will be included in the Agreement.

## **8.0 Liquidated Damages**

Provisions for liquidated damages are set forth in the Agreement.

## **9.0 Subcontractors, Suppliers and Others**

- 9.1 The apparent low bidder, and any other Bidder so requested, will within seven days after the date of the Bid opening submit to Owner a list of principal Subcontractors, suppliers and other persons and organizations he proposes to use in the Work. Such list shall be accompanied by an experience statement with pertinent information as to similar projects and other evidence of qualification for each such Subcontractor, person and organization if requested by Owner.
- 9.2 Particular consideration will be given to the qualifications of each Subcontractor proposed to perform more than 10 % of the Work.
- 9.3 If Owner or Engineer after due investigation has reasonable objection to any proposed Subcontractor, either may, before the Notice of Award is given, request the apparent Bidder to submit an acceptable substitute without an increase in Bid price. If the apparent Successful Bidder declines to make any such substitution, Owner may award the contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers and other persons and organizations. The declining to make requested substitutions will not constitute grounds for sacrificing the Bid security of any Bidder. Any Subcontractor, Supplier, other person or organization listed and to whom Owner or Engineer does not make written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to revocation of such acceptance after the Effective Date of the Agreement as provided in Paragraph 6.06.B of the General Conditions.
- 9.4 Contractor shall not be required to employ any Subcontractor against whom he has reasonable objection. The use of Subcontractors listed by the Bidder and accepted by Owner prior to the Notice of Award will be required in the performance of the Work.
- 9.5 The Contract Documents will take precedence over any nonconforming data submitted. Any Bid specifically conditioned upon furnishing equipment or materials which are not responsive to the Contract Documents will not be considered.

## **10.0 Bid Form**

- 10.1 Bid Forms must be completed in ink or typed. All total prices on the form must be stated in words and numerals; in case of conflict, words will take precedence. All total prices including lump sums in the unit price schedule are to be expressed in numerals only.
- 10.2 Bids by corporations must be executed in the corporate name by the president or a vice-president (or other appropriate officer accompanied by evidence of authority to

sign) and the corporate seal shall be affixed and attested by the secretary or an assistant secretary. The state of incorporation shall be shown below the corporate name.

- 10.3 Bids by partnerships must be executed in the partnership name and signed by a partner, his title must appear under his signature and the official address of the partnership must be shown below the signature.
- 10.4 Bids by joint ventures shall be signed by each participant in the joint venture or by an authorized agent of each participant. The full name of each person or company interested in the Bid shall be listed on the Bid Form.
- 10.5 The Bid shall contain an acknowledgement of receipt of all Addenda (the numbers of which must be filled in on the Bid Form).
- 10.6 No alterations in Bids by erasures, interpolations, or otherwise will be acceptable. Any alteration by the Bidder to the Bid Form will justify immediate forfeiture of Bid and/or default of contract.

#### **11.0 Bid Pricing**

- 11.1 Bids must be based on a unit price basis. The total Bid price will be determined as the sum of the products of the estimated quantity of each item and the unit price set forth in the Schedule of Unit Prices. The final Contract Price will be subject to adjustment according to final measured, used or delivered quantities as provided in the Specifications and the unit prices in the Bid Form will apply to such final quantities except that unit prices may be subject to change by Change Order if quantities vary more than 25 percent. Bids will be checked for correct extensions of unit costs. Unit cost figures will be used as control for Bid comparison.

#### **12.0 Submission of Bids**

- 12.1 Bids shall be submitted at the time and place indicated in the Invitation to Bid and shall be enclosed in an opaque sealed envelope, marked with the Project title "2012 Road Rehabilitation Project" and the name and address of the Bidder. If the Bid is sent through the mail or other delivery system and sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face of it.
- 12.2 Bids shall be deposited at the designated location prior to the time and date for receipt of Bids indicated in the Invitation to Bid, or any extension thereof made by Addendum. Bids received after the time and date for receipt of Bids may be returned unopened. Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids.
- 12.3 Oral, telephonic, or telegraphic Bids are invalid and will not receive consideration.
- 12.4 No Bidder may submit more than one Bid. Multiple Bids under different names will not be accepted from one firm or association.

### **13.0 Modification and Withdrawal of Bids**

- 13.1 Bids may be modified or withdrawn by an appropriate document duly executed (in a manner that a Bid must be executed) and delivered to the place where Bids are to be submitted at any time prior to the opening of Bids.
- 13.2 Bids may also be modified or withdrawn in person or by the Bidder or an authorized representative provided he can prove his identity and authority.
- 13.3 Withdrawn Bids may be resubmitted up to the time designated for the receipt of Bids provided that they are then fully in conformance with these Instructions to Bidders.
- 13.4 If, within twenty-four hours after Bids are opened, any Bidder files a duly signed, written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid. Thereafter, that Bidder will be disqualified from further bidding on the Work to be provided under the Contract Documents.

### **14.0 Bids to Remain Open Subject to Acceptance**

All Bids shall remain open for thirty (30) days after the day of the Bid opening, but Owner may, in his sole discretion, release any Bid prior to that date.

### **15.0 Award of Contract**

- 15.1 Owner reserves the right to reject any and all Bids, to waive any and all informalities and to negotiate contract terms with the Successful Bidder, and the right to disregard all nonconforming, nonresponsive, unbalanced or conditional Bids. Also, Owner reserves the right to reject the Bid of any Bidder if Owner believes that it would not be in the best interest of the Project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by Owner. Discrepancies in the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.
- 15.2 In evaluating Bids, Owner will consider the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be if requested in the Bid Form or prior to the Notice of Award.
- 15.3 Owner may consider the qualifications and experience of Subcontractors, Suppliers, and other persons and organizations proposed for those portions of the Work as to which the identity of Subcontractors, Suppliers, and other persons and organizations must be submitted. Owner also may consider the operating costs, maintenance requirements, performance data and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data is required to be submitted prior to the Notice of Award.
- 15.4 Owner may conduct such investigations as Owner deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of the Bidder's proposed Subcontractors and other persons and organizations to do the Work in accordance with the Contract Documents to Owner's satisfaction within the prescribed time.

15.5 If the contract is to be awarded, it will be awarded to the lowest Bidder whose evaluation by Owner indicates to Owner that the award will be in the best interest of the Project.

**16.0 Contract Security**

Paragraph 5.01 of the General Conditions and the Supplementary Conditions set forth Owner's requirements as to performance and other Bonds. When the Successful Bidder delivers the executed Agreement to Owner it shall be accompanied by the required Contract Security.

**17.0 Signing of Agreement**

When Owner gives a Notice of Award to the Successful Bidder, it will be accompanied by the required number of unsigned counterparts of the Agreement with all other written Contract Documents attached. Within seven days thereafter Contractor shall sign and deliver the required number of counterparts of the Agreement and attached documents to Owner with the required Bonds. Within five days thereafter Owner shall deliver one fully signed counterpart to Contractor.